

Message Text

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TO AMEMBASSY BONN

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C O N F I D E N T I A L USBERLIN 0343

E.O. 11652: GDS

TAGS: PGOV, WB, US, UK, FR, UR

SUBJECT: ACA BUILDING

REFS: A) BONN 1965; B) BONN 3067

1. AS BRITISH HAVE RAISED MATTER IN BONN, WE ARE REPEATING TO YOU INTRA-BERLIN MESSAGE WHICH WE SENT FEBRUARY AFTER RECEIPT OF REF A IN BELIEF THAT IT WOULD BE POSSIBLE FOR ALLIED MISSIONS TO COORDINATE VIEWS BEFORE RETURNING MATTER TO EMBASSY LEVEL. MOST POINTS RAISED BY BRITISH OR FRENCH REFTER ARE DISCUSSED IN IT. WE DO NOT, INCIDENTIALLY, BELIEVE THAT IT WOULD BE POSSIBLE TO IDENTIFY OTHER ALLIED OFFICES WHICH MIGHT BE MOVED INTO ACA TO SUPPLEMENT EXISTING ALLIED USE OF BUILDING. WE ARE ALSO SOMEWHAT PUZZLED BY BRITISH CONCERN THAT MATTER INVOLVES DOMESTIC POLITICAL CONSIDERATIONS FOR BONN. WE WILL LOOK FURTHER INTO FRENCH QUESTION OF DOCUMENTS RELATED TO LOCATION OF BASC, BUT FOR REASONS DISCUSSED IN MESSAGE BELOW, WE DO NOT THINK THEIR EXISTENCE OR NON-EXISTENCE MATERIALLY AFFECTS TACTICAL REALITIES.

BEGIN TEXT: 1. WE HAVE LOOKED INTO THE CIRCUMSTANCES WHEREBY THE ACA BUILDING WAS TAKEN OVER IN 1945, AND
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HAVE COME UP WITH THE FOLLOWING, ADMITTEDLY NOT

CONCLUSIVE, INFORMATION.

2. AT AN INFORMAL MEETING HELD SOMETIME PRIOR TO JULY 19, 1945, GENERAL CLAY (US), MARSHAL ZHUKOV (USSR), AND GENERAL WEEKS (UK) REACHED AGREEMENT, APPARENTLY ORAL, THAT REPRESENTATIVES OF THEIR THREE COMMANDS WOULD JOINTLY SELECT A SUITABLE BUILDING FOR THE HEAD-QUARTERS OF THE ALLIED CONTROL COUNCIL. AFTER THE SOVIET REPRESENTATIVE REJECTED USE OF THE FORMER AIR MINISTRY BUILDING ON LEIPZIGERSTRASSE (AND INDICATED THAT NO SITE IN THE SOVIET SECTION WOULD BE ACCEPTABLE), GENERALS SOKOLOVSKY, WHITELEY, AND ECHOLS SETTLED ON THE PREMISES AT 32 ELSHOLZSTRASSE. AS FAR AS WE CAN ASCERTAIN, THIS DECISION WAS NOT EMBODIED IN ANY FORMAL SIGNED AGREEMENT AND IN FACT WAS TAKEN BEFORE THE ALLIED CONTROL COUNCIL HELD ITS FIRST MEETING. IT WAS IMPLEMENTED IN A LETTER FROM GENERAL ECHOLS TO THE COMMANDING GENERAL, US HEADQUARTERS BELRIN DISTRICT, IN WHICH THE LATTER WAS INSTRUCTED TO MAKE THE BUILDING AVAILABLE AS SOON AS POSSIBLE. THE ACTUAL TAKEOVER OCCURRED ON JULY 19, AND REHABILITATION WORK WAS BEGUN ON THE SAME DAY.

3. ACQUISITION OF THE ACA BUILDING WAS APPARENTLY NOT FORMALIZED UNTIL JULY 1, 1947, WHEN THE FIRST REGULAR REQUISITION DOCUMENT (A "REQUISITION RECEIPT") WAS PREPARED AND SIGNED BY THE CHIEF OF THE REAL ESTATE OFFICE OF THE REQUISITION WAS, HOWEVER, GIVEN AS JULY 19, 1945. THE REQUISITION DOCUMENT PRESENTLY IN FORCE IS DATED MARCH 27, 1962, AND SPECIFIES, IN PART, THAT "THE US GOVERNMENT ACQUIRED SOLE USE AND OCCUPANCY OF THE PREMISES..." (PRESUMABLY A CONVENTIONAL FORMULA). THE TERM "REQUISITION" IS IN FACT A MISNOMER IN THIS INSTANCE, SINCE, AS PROPERTY OF THE FORMER GERMAN REICH, THE BUILDING WAS CONFISCATED AND HAS BEEN USED SINCE 1945 ON A RENT-FREE BASIS.

4. BY VIRTUE OF US MILITARY GOVERNMENT LAW NO. 19, EFFECTIVE IN THE US OCCUPATION ZONE AND IN THE US SECTOR OF BERLIN, PROPERTY OF THE FORMER REICH, GERMAN STATES, CONFIDENTIAL

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AND LAENDER WAS SEIZED AND DISPOSED OF. ARTICLE III OF THIS LAW PROVIDED THAT THE USE OF PROPERTY BY THE OCCUPATION FORCES SHOULD NOT PREVENT TRANSFER OF TITLE, AND THAT SUCH USE SHOULD CONTINUE UNTIL THE PROPERTY WAS RELEASED BY THE OCCUPATION FORCES. UNDER THE PROVISIONS, TITLE TO THE ACA BUILDING WAS VESTED IN THE CITY OF BERLIN.

5. THIS RECITAL OF THE EVIDENCE DOES NOT, OF COURSE, ESTABLISH CONCLUSIVELY WHETHER OR NOT THE SOVIETS, AS A MATTER OF LAW, CAN JUSTIFIABLY CLAIM SOME TITLE TO THE ACA BUILDING, OR SOME SAY IN ITS DISPOSITION. (WE ARE LEAVING ASIDE HERE FOR THE MOMENT THE QUESTION OF BASC). THE BUILDING WAS FORMALLY ACQUIRED BY THE US HEADQUARTERS BERLIN, YET THIS WAS ON THE BASIS OF US-UK-SOVIET SELECTION AND FOR THE USE OF ALL THREE (SUBSEQUENTLY FOUR) OCCUPATION POWERS.

ON BALANCE, WE BELIEVE THAT WE WOULD BE ON FIRM LEGAL GROUND IN RE TURNING THE BUILDING TO THE SENAT WITHOUT SOVIET CONCURRENCE OR PARTICIPATION AS LONG AS PROVISION WAS MADE FOR OUR ABILITY TO USE THE FACILITIES AGAIN FOR QUADRIPARTITE PURPOSES. IN LINE WITH THEIR CURRENT POLICY OF ASSERTING AN ACTIVE FOURTH-POWER ROLE IN THE WESTERN SECTORS THE SOVIETS MIGHT WELL PROTEST THEIR EXCLUSION FROM THIS DECISION, BUT THEIR CLAIM TO AN EQUAL SAY IN THE DISPOSITION OF THE BUILDING-- WHICH COULD BE BASED ONLY ON THEIR ORIGINAL ACA MEMBERSHIP-- WOULD BE VITIATED BY THE FACT THAT THEY NO LONGER CONSIDER THEMSELVES MEMBERS AND INDEED DO NOT RECOGNIZE THE CONTINUED EXISTENCE OF THE AUTHORITY ITSELF.

6. AN ALTERNATIVE THAT MIGHT BE WORTH CONSIDERING IS THAT WE TURN THE BUILDING OVER TO THE SENAT FOR ITS USE WITHOUT FORMALLY ENDING THE REQUISITION (OR CONFISCATION). THIS WOULD ALLOW US TO RESPOND MORE EFFECTIVELY TO POSSIBLE SOVIET COMPLAINTS. (WE COULD POINT OUT THAT THE BUILDING WAS STILL UNDER FORMAL US REQUISITION WITH AN APPROPRIATE RESERVED RIGHT OF REVERSION FOR SUCH QUADRIPARTITE USES AS MIGHT BE REQUIRED. APART FROM POSSIBLE FUTURE FOUR-POWER MEETINGS, ONE SUCH CONTINUING USE MIGHT BE FOR THE ACCEPTANCE OF CREDENTIALS

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OF HEADS OF MILITARY MISSIONS.) WE WOULD, OF COURSE, HAVE TO DISCUSS THE TERMS OF OUR REVERSIONARY RIGHTS WITH THE SENAT.

7. IN FACT, HOWEVER, WE ARE DISINCLINED TO ATTACH TOO MUCH IMPORTANCE TO THE LEGALITIES OF THE SOVIET RIGHTS IN THE ACA BUILDING. AS LONG AS WE WISH TO RETAIN THEIR PARTICIPATION IN THE BASC, THE SOVIETS WILL HAVE AN EFFECTIVE VETO IN OUR PLANS FOR THE ACA. IF THEY DO NOT LIKE EITHER THE IDEA OF MOVING BASC TO A NEW SITE OR OUR PROPOSED DISPOSITION OF THE ACA BUILDING, THEY WILL BE SURE TO LET US KNOW. LIKEWISE IF IT IS DECIDED THAT THE BASC SHOULD STAY AT ITS PRESENT SITE BUT THAT THE REST OF THE BUILDING SHOULD BE TURNED OVER TO THE SENAT, THEY COULD PROBABLY EFFECTIVELY STALL THE EXERCISE IF

THEY WISHED BY EXPRESSING UNHAPPINESS. IN SUMMARY, THEN, IT WOULD SEEM TO US PORPER TO PROCEED ON THE BASIS THAT IT IS FOR THE ALLIED TO TAKE THE FORMAL LEGAL STEPS FOR DISPOSING OF THE BUILDING AS THEY WISH, MAKING ADEQUATE ARRANGEMENTS WITH THE SENAT FOR SUCH FOUR-POWER USES AS MAY BE REQUIRED, WHILE OBTAINING AN INFORMAL SOVIET CONCURRENCE THROUGH GIVING SUFFICIENTLY EARLY NOTICE OF OUR PLANS WITH RESPECT TO THE BASC SO THAT THEY CAN OBJECT IF THEY ARE SO-MINDED. ONLY IN THE EVENT THAT IT IS DECIDED THAT THE BASC SHOULD BE MOVED, HOWEVER, WOULD THERE SEEM TO BE A NEED TO CONSIDER SEEKING A MORE FORMAL SOVIET CONCURRENCE IN THE FORM WE UNDERSTAND WAS DISCUSSED AMONG THE EMBASSIES, NAMELY THAT THE RE-LOCATION WOULD HAVE NO EFFECT UPON BASC OPERATIONS.

8. AS YOU WILL RECALL, THE ORIGINAL SCERNARIO WE PROPOSED CALLED FOR AN APPROACH TO THE SOVIETS TO SECURE THEIR ASSENT TO THE RELOCATION OF THE BASC PRIOR TO OUR SEEKING REASSURANCES FROM THE SENAT THAT SPACE WOULD BE MADE AVAILABLE FOR FUTURE QUADRIpartite MEETINGS AND THAT OTHER SUITABLE PREMISES WOULD BE PROVIDED FOR THE BASC. NOW THAT THE PROPOSAL HAS BEEN ADVANCED THAT THE BASC REMAIN IN THE ACA BUILDING, WE WOULD BE PREPARED TO REVISE THE SCENARIO AND APPROACH THE SENAT FIRST, SEEKING, IN ADDITION TO THE ABOVE ASSURANCES, THEIR AGREEMENT ON THE BASC REMAINING IN PLACE, SHOULD THIS
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TURN OUT TO BE THE PREFERRED SOLUTION. DEPENDING ON THE SENAT RESPONSE, AND OUR OWN FURTHER DELIBERATIONS, WE WOULD THEN FORMALLY BROACH ONE OR THE OTHER BASC OPTION TO THE SOVIETS. CAN YOU AGREE TO SUCH AN APPROACH TO THE SENAT AT THIS TIME?

9. WE WOULD ALSO BE GRATEFUL FOR ANY FURTHER INFORMATION ON THE ACQUISITION AND STATUS OF THE ACA BUILDING THAT YOU MAY HAVE BEEN ABLE TO CULL FROM YOUR OW, FILES. FOR EXAMPLE, DO YOU HAVE ANY INDICATION THAT THE LEGAL STATUSOF THE ACA BUILDING IS DIFFERENT FROM THAT OF SPANDAU PRISON, THE ULTIMATE DISPOSITION OF WHICH, I BELIEVE, WE AGREED IN PAST DISCUSSIONS WOULD BE UP TO BMG. END TEXT.GEORGE

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